

Introduced by Senator Leyva

February 26, 2015

An act to amend Sections 16182, 16184, and 16186 of the Government Code, and to amend Sections 2514 and 20583 of, and to add Section 20583.1 to, the Revenue and Taxation Code, relating to state government, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 477, as introduced, Leyva. Property tax postponement: mobilehomes and floating homes.

Existing law, on and after February 20, 2009, prohibited a person from filing a claim for postponement, and prohibited the Controller from accepting applications for postponement of ad valorem tax, under the Senior Citizens and Disabled Citizens Property Tax Postponement Law. Existing law, as of July 1, 2016, makes inoperative the prohibition against a qualifying person, as specified, filing a claim for postponement and the Controller from accepting applications for postponement under the program and repeals this prohibition on January 1, 2017. Existing law does not allow owners of mobilehomes, houseboats, and floating homes to seek postponement of ad valorem taxes when the prohibition is lifted.

This bill would authorize an owner of a mobilehome or floating home, who is a qualified person, to seek postponement of ad valorem taxes under provisions similar to other owners of real property.

Because this bill would provide for additional categories of expenditures from the Senior Citizens and Disabled Citizens Property Tax Postponement Fund, a continuously appropriated fund, it would make an appropriation.

Because this bill would require local entities to process property liens under the expansion of the property tax postponement program, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 16182 of the Government Code is
2 amended to read:
3 16182. (a) All sums paid by the Controller under the provisions
4 of this chapter, together with interest thereon, shall be secured by
5 a lien in favor of the State of California when funds are transferred
6 to the county by the Controller upon the real property *or a*
7 *mobilehome* for which property taxes have been postponed. In the
8 case of a residential dwelling which is part of a larger parcel taxed
9 as a unit, such as a duplex, farm, or multipurpose or multidwelling
10 building, the lien shall be against the entire tax parcel.
11 (b) In the case of real property:
12 (1) The lien shall be evidenced by a notice of lien for postponed
13 property taxes executed by the Controller, or the authorized
14 delegate of the Controller, and shall secure all sums paid or owing
15 pursuant to this chapter, including amounts paid subsequent to the
16 initial payment of postponed taxes on the real property described
17 in the notice of lien.
18 (2) The notice of lien may bear the facsimile signature of the
19 Controller. Each signature shall be that of the person who shall be
20 in the office at the time of execution of the notice of lien; provided,
21 however, that such notice of lien shall be valid and binding
22 notwithstanding any such person having ceased to hold the office
23 of Controller before the date of recordation.

1 (3) The form and contents of the notice of lien for postponed
2 property taxes shall be prescribed by the Controller and shall
3 include, but not be limited to, the following:

4 (A) The names of all record owners of the real property for
5 which the Controller has advanced funds for the payment of real
6 property taxes.

7 (B) A description of the real property for which real property
8 taxes have been paid.

9 (C) The identification number of the notice of lien which has
10 been assigned the lien by the Controller.

11 (4) Within 14 business days of the transfer of funds and the
12 notice of lien to the county by the Controller, the notice of lien
13 shall be recorded in the office of the county recorder for the county
14 in which the real property subject to the lien is located.

15 (5) The recorded notice of lien shall be indexed in the Grantor
16 Index to the names of all record owners of the real property and
17 in the Grantee Index to the Controller of the State of California.

18 (6) After the notice of lien has been duly recorded and indexed,
19 it shall be returned by the county recorder to the office of the
20 Controller. The recorder shall provide the county tax collector with
21 a copy of the notice of lien which has been recorded by the
22 Controller.

23 (7) From the time of recordation of a notice of lien for postponed
24 property taxes, a lien shall attach to the real property described
25 therein and shall have the priority of a judgment lien for all
26 amounts secured thereby, except that the lien shall remain in effect
27 until it is released by the Controller in the manner prescribed by
28 Section 16186.

29 (c) *In the case of a mobilehome:*

30 (1) *The lien shall be evidenced by a notice of lien for postponed*
31 *property taxes executed by the Controller, or the authorized*
32 *delegate of the Controller, and shall secure all sums paid or owing*
33 *pursuant to this chapter.*

34 (2) *The notice of lien may bear the facsimile signature of the*
35 *Controller. The signature shall be that of the person who is in the*
36 *office at the time of execution of the notice of lien. However, the*
37 *notice of lien is valid and binding notwithstanding the person*
38 *having ceased to hold the office of Controller before the date of*
39 *filing.*

1 (3) *The form and contents of the notice of lien for postponed*
2 *property taxes shall be prescribed by the Controller and shall*
3 *include, but not be limited to, all of the following:*

4 (A) *The name or names of the registered owner or owners, legal*
5 *owner or owners, if different than the registered owner or owners*
6 *and the names, if any, of all junior lienholders.*

7 (B) *The identification number of the notice of lien which has*
8 *been assigned the lien by the Controller.*

9 (4) *The notice of lien shall be transmitted to the Department of*
10 *Housing and Community Development at its office in Sacramento,*
11 *California.*

12 (5) *Upon receipt of the notice of lien for postponed property*
13 *taxes from the Controller, the Department of Housing and*
14 *Community Development shall amend the permanent title record*
15 *of the mobilehome to reflect that the property taxes on the*
16 *mobilehome are subject to postponement.*

17 (6) *The Department of Housing and Community Development*
18 *shall provide the Controller with an acknowledgment of receipt*
19 *and amendment of the permanent title record.*

20 (7) *From the time the Department of Housing and Community*
21 *Development receives the notice of lien from the Controller, the*
22 *department shall impose a moratorium on any other amendments*
23 *to the permanent title record of the mobilehome for purposes of*
24 *transferring any ownership interest or transferring or creating*
25 *any security interest in the mobilehome, until released by the*
26 *Controller in the manner prescribed by Section 16186 or an*
27 *authorization for the amendments is given by the Controller in*
28 *writing.*

29 (d) *From the time of filing a notice of lien, a lien shall attach*
30 *to the mobilehome for which eligibility for the postponement of*
31 *property taxes has been granted.*

32 (e) *Notwithstanding any other provision in this section, any*
33 *action required of a local agency by this section in order to give*
34 *effect to the Senior Citizens Mobilehome Property Tax*
35 *Postponement Law (Chapter 3.3 (commencing with Section 20639)*
36 *of Part 10.5 of Division 2 of the Revenue and Taxation Code), and*
37 *that has been determined by the Commission on State Mandates*
38 *to be a reimbursable mandate, shall be optional.*

39 (e)

(f) In the case of mobilehome loans established prior to February 20, 2009, all of the following shall apply:

(1) The lien shall be evidenced by a notice of lien for postponed property taxes excused by the Controller, or the authorized delegate of the Controller, and shall secure all sums paid owing pursuant to this chapter.

(2) From the time that the Department of Housing and Community Development receives the notice of lien from the Controller, the department shall impose a moratorium on any other amendments to the permanent title record of the mobilehome unit until released by the Controller in the manner prescribed by Section 16186, or an authorization for the amendments is given by the Controller in writing.

(3) From the time of filing a notice of lien, a lien shall attach to the mobilehome for which eligibility for the postponement of property taxes has been granted.

SEC. 2. Section 16184 of the Government Code is amended to read:

16184. The Controller shall reduce the amount of the obligation secured by the lien against the real property *or mobilehome* by the amount of any payments received for that purpose and by notification of any amounts paid by the Franchise Tax Board pursuant to Section 20564 or by any amounts authorized pursuant to subdivision (f) of Section 20621 of the Revenue and Taxation Code. The Controller shall also increase the amount of the obligation secured by the lien by the amount of any subsequent payments made pursuant to Section 16180 with respect to the real property and to reflect the accumulation of interest. All such increases and decreases shall be entered in the record described in Section 16181.

SEC. 3. Section 16186 of the Government Code is amended to read:

16186. (a) If at any time the amount of the obligation secured by the lien for postponed property taxes is paid in full or otherwise discharged, the Controller, or the authorized delegate of the Controller, shall in the case of real property:

(1) Execute and cause to be recorded in the office of the county recorder of the county wherein the real property described in the lien is located, a release of the lien conclusively evidencing the satisfaction of all amounts secured by the lien. The cost of

1 recording the release of the lien shall be added to and become part
2 of the obligation secured by the lien being released.

3 (2) Direct the tax collector to remove from the secured roll, the
4 information required to be entered thereon by paragraph (1) of
5 subdivision (a) of Section 2514 of the Revenue and Taxation Code
6 with respect to the property described in the lien.

7 (3) Direct the assessor to remove from the assessment records
8 applicable to the property described in the lien, the information
9 required to be entered on such records by Section 2515 of the
10 Revenue and Taxation Code.

11 (b) If at any time the amount of the obligation secured by the
12 lien for postponed property taxes is paid in full or otherwise
13 discharged, the Controller, or the authorized delegate of the
14 Controller, shall, in the case of mobilehome loans established prior
15 to February 20, 2009:

16 (1) Direct the tax collector to remove from the secured roll the
17 information required to be entered thereon by paragraph (1) of
18 subdivision (a) of Section 2514 of the Revenue and Taxation Code.

19 (2) Transmit a Release of Lien to the owner of the mobilehome,
20 or the owner's heirs or assigns. The owner, or the owner's heirs
21 or assigns, shall transmit the Release of Lien, and a fee of six
22 dollars (\$6), to the Department of Housing and Community
23 Development. Upon receipt of the Release of Lien and the fee, the
24 department shall terminate the restriction on the permanent title
25 record as provided in Section 16182.

26 (c) *If at any time the amount of the obligation secured by the*
27 *lien for postponed property taxes is paid in full or otherwise*
28 *discharged, the Controller, or the authorized delegate of the*
29 *Controller, shall, in the case of a mobilehome:*

30 (1) *Direct the tax collector to remove from the secured roll the*
31 *information required to be entered thereon by paragraph (1) of*
32 *subdivision (a) of Section 2514 of the Revenue and Taxation Code.*

33 (2) *Transmit a Release of Lien to the owner of the mobilehome*
34 *or the owner's heirs or assigns. The owner, or the owner's heirs*
35 *or assigns, shall transmit the Release of Lien, and a fee of six*
36 *dollars (\$6), to the Department of Housing and Community*
37 *Development. Upon receipt of the Release of Lien and the fee, the*
38 *department shall terminate the restriction on the permanent title*
39 *record as provided by Section 16182.*

1 SEC. 4. Section 2514 of the Revenue and Taxation Code is
2 amended to read:

3 2514. (a) With respect to a claimant whose property taxes are
4 paid by a lender from an impound, trust, or other type of account
5 described in Section 2954 of the Civil Code, the tax collector shall
6 notify the auditor of the claimant's name and address, and the
7 duplicate amount of money the Controller transferred to the tax
8 collector via an electronic fund transfer.

9 The county auditor, treasurer, or disbursing officer shall send a
10 check in the amount of money based on the electronic transfer by
11 the Controller, to the Controller within 60 days of the replicated
12 payment.

13 (b) The procedures established by this chapter shall not be
14 construed to require a lender to alter the manner in which a lender
15 makes payment of the property taxes of such a claimant.

16 (c) *Notwithstanding any other provision in this section, any*
17 *action required of a local agency by this section in order to give*
18 *effect to the Senior Citizens Mobilehome Property Tax*
19 *Postponement Law (Chapter 3.3 (commencing with Section 20639)*
20 *of Part 10.5 of Division 2), and that has been determined by the*
21 *Commission on State Mandates to be a reimbursable mandate,*
22 *shall be optional.*

23 SEC. 5. Section 20583 of the Revenue and Taxation Code is
24 amended to read:

25 20583. (a) "Residential dwelling" means a dwelling occupied
26 as the principal place of residence of the claimant, and so much
27 of the land surrounding it as is reasonably necessary for use of the
28 dwelling as a home, owned by the claimant, the claimant and
29 spouse, or by the claimant and either another individual eligible
30 for postponement under this chapter or an individual described in
31 subdivision (a), (b), or (c) of Section 20511 and located in this
32 state. It shall include condominiums *and mobilehomes* that are
33 assessed as realty for local property tax purposes. It also includes
34 part of a multidwelling or multipurpose building and a part of the
35 land upon which it is built. *In the case of a mobilehome not*
36 *assessed as real property that is located on land owned by the*
37 *claimant, "residential dwelling" includes the land on which the*
38 *mobilehome is situated and so much of the land surrounding it as*
39 *reasonably necessary for use of the mobilehome as a home.*

(b) As used in this chapter in reference to ownership interests in residential dwellings, “owned” includes (1) the interest of a vendee in possession under a land sale contract provided that the contract or memorandum thereof is recorded and only from the date of recordation of the contract or memorandum thereof in the office of the county recorder where the residential dwelling is located, (2) the interest of the holder of a life estate provided that the instrument creating the life estate is recorded and only from the date of recordation of the instrument creating the life estate in the office of the county recorder where the residential dwelling is located, but “owned” does not include the interest of the holder of any remainder interest or the holder of a reversionary interest in the residential dwelling, (3) the interest of a joint tenant or a tenant in common in the residential dwelling or the interest of a tenant where title is held in tenancy by the entirety or a community property interest where title is held as community property, and (4) the interest in the residential dwelling in which the title is held in trust, as described in subdivision (d) of Section 62, provided that the Controller determines that the state’s interest is adequately protected.

(c) *For purposes of this chapter, the registered owner of a mobilehome shall be deemed to be the owner of the mobilehome.*

~~(e)~~

(d) Except as provided in subdivision (c), and Chapter 3 (commencing with Section 20625), ownership must be evidenced by an instrument duly recorded in the office of the county where the residential dwelling is located.

~~(d)~~

(e) “Residential dwelling” does not include any of the following:

(1) Any residential dwelling in which the owners do not have an equity of at least 40 percent of the full value of the property as determined for purposes of property taxation or at least 40 percent of the fair market value as determined by the Controller and where the Controller determines that the state’s interest is adequately protected. The 40-percent equity requirement shall be met each time the claimant or authorized agent files a postponement claim.

(2) Any residential dwelling in which the claimant’s interest is held pursuant to a contract of sale or under a life estate, unless the claimant obtains the written consent of the vendor under the contract of sale, or the holder of the reversionary interest upon

1 termination of the life estate, for the postponement of taxes and
2 the creation of a lien on the real property in favor of the state for
3 amounts postponed pursuant to this act.

4 (3) Any residential dwelling on which the claimant does not
5 receive a secured tax bill.

6 (4) Any residential dwelling in which the claimant's interest is
7 held as a possessory interest, except as provided in Chapter 3.5
8 (commencing with Section 20640).

9 *(f) Notwithstanding subdivision (c) of Section 20584, houseboats*
10 *and floating homes, as defined by Section 20583.1, on which*
11 *property taxes are delinquent at the time the application for*
12 *postponement under this chapter is made, shall not be eligible for*
13 *postponement.*

14 SEC. 6. Section 20583.1 is added to the Revenue and Taxation
15 Code, to read:

16 20583.1. For purposes of Section 20583, "residential dwelling"
17 includes houseboats and floating homes.

18 SEC. 7. If the Commission on State Mandates determines that
19 this act contains costs mandated by the state, reimbursement to
20 local agencies and school districts for those costs shall be made
21 pursuant to Part 7 (commencing with Section 17500) of Division
22 4 of Title 2 of the Government Code.